



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

December 1, 2017

Summary of Cases Accepted and Related Actions During Week of November 27, 2017

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#17-330 *Montrose Chemical Corp. v. Superior Court*, S244737. (B272387; 14 Cal.App.5th 1306; Los Angeles County Superior Court; BC005158.) Petition for review after the Court of Appeal granted in part and denied in part a petition for peremptory writ of mandate. This case presents the following issue: When continuous property damage occurs during several periods for which an insured purchased multiple layers of excess insurance, does the rule of “horizontal exhaustion” require the insured to exhaust excess insurance at lower levels for all periods before obtaining coverage from higher level excess insurance in any period?

#17-331 *OTO, L.L.C. v. Kho*, S244630. (A147564; 14 Cal.App.5th 691; Alameda County Superior Court; RG15781961.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration in a civil action. This case presents the following issues: (1) Was the arbitration remedy at issue in this case sufficiently “affordable and accessible” within the meaning of *Sonic-Calabasas A, Inc. v. Moreno* (2013) 57 Cal.4th 1109 to require the company’s employees to forego the right to an administrative Berman hearing on wage claims? (2) Did the employer waive its right to bypass the Berman hearing by waiting until the morning of that hearing, serving a demand for arbitration, and refusing to participate in the hearing?

#17-332 *Stoetzel v. State of California*, S244751. (A142832; 14 Cal.App.5th 1256; San Francisco County Superior Court; CJC11004661.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case includes the following issue: Does the definition of “hours worked” found in the Industrial Wage Commission’s Wage Order 4, as opposed to the definition of that term found in the federal Labor Standards Act, constitute the controlling legal standard for

determining the compensability of time that correctional employees spend after signing in for duty and before signing out but before they arrive at and after they leave their actual work posts within a correctional facility?

#17-333 *People v. Carter*, S245074. (D071357; nonpublished opinion; San Diego County Superior Court; SCD268190.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#17-334 *People v. Henriquez*, S245035. (H041840; nonpublished opinion; Santa Clara County Superior Court; C1351219.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#17-335 *People v. Trujillo*, S244650. (D071715; 15 Cal.App.5th 574; San Diego County Superior Court; SCE364802, SCE364544.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Carter*, *Henriquez* and *Trujillo* deferred pending decision in *In re Ricardo P.*, S230923 (#16-41), which presents the following issue: Did the trial court err imposing an “electronics search condition” on minor as a condition of his probation when it had no relationship to the crimes he committed but was justified on appeal as reasonably related to future criminality under *People v. Olguin* (2008) 45 Cal.4th 375 because it would facilitate his supervision?

#17-336 *People v. Contreras*, S244597. (B277699; nonpublished opinion; Los Angeles County Superior Court; LA083486.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Page*, S230793 (#16-28), which presents the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply to the offense of unlawful taking or driving a vehicle (Veh. Code, § 10851), because it is a lesser included offense of Penal Code section 487, subdivision (d), and that offense is eligible for resentencing to a misdemeanor under Penal Code sections 490.2 and 1170.18?

#17-337 *People v. Day*, S245019. (H043843; nonpublished opinion; Santa Cruz County Superior Court; F28717, F28743.) Petition for review after the Court of Appeal affirmed an order denying a post-conviction motion to modify sentence. The court ordered briefing deferred pending decision in *People v. Ruiz*, S235556 (#16-312), which presents the following issue: May a trial court properly impose a criminal laboratory analysis fee (Health & Saf. Code, § 11372.5, subd. (a)) and a drug program fee (Health & Saf. Code, § 11372.7, subd. (a)) based on a defendant’s conviction for conspiracy to commit certain drug offenses?

#17-338 *People v. Holtzclaw*, S244600. (F072186; nonpublished opinion; Tuolumne County Superior Court; CRF38014, CRF39561.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence. The court ordered briefing deferred pending decision in *In re Guiomar*, S238888, which presents the following issue: Was defendant eligible for resentencing on the penalty enhancement for failure to appear after being released on bail on a felony charge that was later reduced to a misdemeanor?

#17-339 *In re Villalobos*, S244465. (B279545; nonpublished opinion; Los Angeles County Superior Court; MA040107.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Cook*, S240153 (#17-116), which presents the following issue: Does habeas corpus jurisdiction exist for a petitioner seeking a post-sentencing hearing to make a record of “mitigating evidence tied to his youth” (*People v. Franklin* (2016) 63 Cal.4th 261, 276) after the conviction is final?

DISPOSITIONS

Review in the following cases was dismissed in light of *People v. Valencia* (2017) 3 Cal.5th 347:

#15-44 <i>People v. Andrade</i>, S224790	(B252846; nonpublished opinion; Ventura County Superior Court; CR37160)
#15-45 <i>People v. Ivory</i>, S224957	(F068002; nonpublished opinion; Madera County Superior Court; MCR08917)
#15-58 <i>People v. Rodriguez</i>, S225047	(F067805; 233 Cal.App.4th 1403; Madera County Superior Court; MCR04652)
#15-66 <i>People v. Crockett</i>, S225198	(C074342; 234 Cal.App.4th 642; Shasta County Superior Court; 08F06372)
#15-72 <i>People v. Taylor</i>, S225626	(E059227; nonpublished opinion; Riverside County Superior Court; RIF139865)
#15-108 <i>People v. Aguirre</i>, S226119	(C077310; nonpublished opinion; Butte County Superior Court; CM009631)
#15-125 <i>People v. Lopez</i>, S227028	(H039896; 236 Cal.App.4th 518; Santa Clara County Superior Court; 202265)
#15-160 <i>People v. Harmon</i>, S227862	(E060808; nonpublished opinion; Riverside County Superior Court; RIF109651)
#15-167 <i>People v. Martin</i>, S228352	(H040617; nonpublished opinion; Santa Clara County Superior Court; 20248)
#15-174 <i>People v. Bates</i>, S228870	(D065983; nonpublished opinion; San Diego County Superior Court; SCD192318)

#15-183 <i>People v. Smith</i>, S228932	(B256036; nonpublished opinion; Los Angeles County Superior Court; YA050327)
#15-184 <i>People v. Alexander</i>, S229041	(C073170; nonpublished opinion; San Joaquin County Superior Court; SF082949A)
#15-185 <i>People v. Dixie</i>, S229273	(E060217; nonpublished opinion; Riverside County Superior Court; RIF121599)
#15-209 <i>People v. Poor</i>, S229563	(C074830; nonpublished opinion; Butte County Superior Court; CM00932)
#15-213 <i>People v. Owens</i>, S229533	(F067362; nonpublished opinion; Fresno County Superior Court; CF99638241)
#16-05 <i>People v. Edward</i>, S230685	(B257940; nonpublished opinion; Los Angeles County Superior Court; BA180721)
#16-07 <i>People v. Higginbotham</i>, S230803	(D065536; nonpublished opinion; San Diego County Superior Court; SCE180353)
#16-31 <i>People v. Franklin</i>, S231419	(H040085; nonpublished opinion; San Benito County Superior Court; CR1201725)
#16-77 <i>People v. Hamilton</i>, S232118	(F069272; nonpublished opinion; Kern County Superior Court; SC061057A)
#16-95 <i>People v. Rubal</i>, S232411	(C076023; nonpublished opinion; Placer County Superior Court; 62088013A)
#16-238 <i>People v. Aguirre</i>, S235069	(F069804; nonpublished opinion; Fresno County Superior Court; 676121-7)
#16-239 <i>People v. Ellis</i>, S234258	(H040933; nonpublished opinion; Monterey County Superior Court; SS041497)
#16-271 <i>People v. Avila</i>, S235590	(F069183; nonpublished opinion; Fresno County Superior Court; CF95538381)
#16-274 <i>People v. Hellon</i>, S235716	(C075511; nonpublished opinion; Butte County Superior Court; CM016207, CM016216)
#16-293 <i>People v. Shirley</i>, S235918	(B262383; nonpublished opinion; Los Angeles County Superior Court; TA047762)
#16-305 <i>People v. Montano</i>, S236190	(B265307; nonpublished opinion; Los Angeles County Superior Court; PA027859)
#16-367 <i>People v. Burris</i>, S237188	(B264170; nonpublished opinion; San Luis Obispo County Superior Court; F213809)

#16-368 <i>People v. Knight</i>, S236684	(C077468; nonpublished opinion; Sacramento County Superior Court; 10F04539)
#16-399 <i>People v. Garcia</i>, S237667	(B267788; nonpublished opinion; Los Angeles County Superior Court; NA030813)
#16-408 <i>People v. Garcia</i>, S237562	(F069668; nonpublished opinion; Kern County Superior Court; SC065625A)
#16-418 <i>People v. Berg</i>, S237997	(B264001; nonpublished opinion; Los Angeles County Superior Court; LA019703)
#16-442 <i>People v. Roberson</i>, S238190	(B262682; nonpublished opinion; Los Angeles County Superior Court; LA027670)
#17-14 <i>People v. Gardner</i>, S238446	(B268410; nonpublished opinion; Los Angeles County Superior Court; BA165537)
#17-15 <i>People v. Salmon</i>, S238598	(H042341; nonpublished opinion; Santa Clara County Superior Court; CC827450)
#17-61 <i>People v. Roberts</i>, S239378	(B265487; nonpublished opinion; Los Angeles County Superior Court; TA056736)
#17-62 <i>People v. Velasquez</i>, S239330	(B262495; nonpublished opinion; Los Angeles County Superior Court; KA024463)
#17-124 <i>People v. Harmon</i>, S240324	(B269971; nonpublished opinion; Los Angeles County Superior Court; BA093310)
#17-125 <i>People v. Perez</i>, S240519	(F070534; nonpublished opinion; Kern County Superior Court; SC065759A)
#17-141 <i>People v. Wilson</i>, S240795	(B266967; nonpublished opinion; Los Angeles County Superior Court; BA119207)
#17-177 <i>People v. Smith</i>, S240712	(C082426; nonpublished opinion; Sacramento County Superior Court; 00F09247)
#17-198 <i>People v. Mueck</i>, S241533	(C078223; nonpublished opinion; Tehama County Superior Court; NCR81726)
#17-201 <i>People v. Flowers</i>, S241974	(B269656; nonpublished opinion; Los Angeles County Superior Court; YA053776)
#17-205 <i>People v. Estrada</i>, S241700	(H272129; nonpublished opinion; Los Angeles County Superior Court; BA164435)

#17-238 <i>People v. Britten</i>, S242322	(A143848, nonpublished opinion; San Mateo County Superior Court; SC038485A)
#17-239 <i>People v. Rocha</i>, S242325	(B263350; nonpublished opinion; Los Angeles County Superior Court; LA028064)
#17-240 <i>People v. Tucker</i>, S242752	(B271616; nonpublished opinion; Los Angeles County Superior Court; NA027035)

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The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.